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practices, hospital districts are well advised to assure that these are part of their administrative routines. The bulk of these general fiduciary requirements are common to all hospitals and other health care institutions, and are beyond the scope of this manual. However, most, if not all, of these general procedural requirements should be identified in the process of conducting the audit described at the end of Chapter 4 in the Legal Manual.

#### *Budgeting Requirements*

While any prudent hospital district would use a budgeting process, a hospital district budget is also required under RCW 70.44.060(6). Each district must develop a proposed budget by November 1<sup>st</sup> of each year and file it in the records of the commission. Notice of the filing and the date of the hearing on the budget must be published once a week for two consecutive weeks in a newspaper printed and of general circulation in the county. A hearing on the budget must be held on or before the 15<sup>th</sup> day of November, and the commissioner board must adopt the final budget by resolution after this hearing. The clear purpose of this budget is to generate a document to be used in the development of tax needs and rates by county officers. The hearing must include consideration of possible increases in property tax revenues. [RCW 84.55.120]

#### *Practical Consideration*

The budget required by statute is essentially directed at generating the level of tax receipts required by public hospital districts. Because of the variation in other revenue sources for a PHD, and the fact that a budget used for management control should be much more detailed than this basic budget required by statute, hospital districts might wish to use two budget documents. While the totals and key sub-totals of the budget used at public hearing should match the more detailed management budget, this double budget approach provides a great deal more flexibility for district management.

#### *Amendments*

If a district under-estimates its expenditures for the budget required by statute, the PHD should amend it by resolution of the board to reflect the expenditures. The adoption of amendments by the board of commissioners should be of great value to the superintendent by showing, as a matter of public record, that commissioners are aware of the necessary changes and have acted to approve them.

#### *Receipt, Disbursement, and Investment of Funds*

Receipt and disbursement of funds is managed by the district treasurer. See Chapter 2 of the PHD Legal Manual for a complete discussion of responsibilities and issues.

### **B. District Revenues/Property Tax Overview**

By far the largest component of the financial resources for hospital district operations comes from revenues generated from medical treatment. Payments for this patient care come from many sources, including private insurers, the state and federal government, and self-paying patients. For hospital districts, patient revenues typically make up over 95 percent of their total budget, with tax revenues making up the balance. This

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dependence by a local government on revenues associated with the service provided, rather than using a tax-dominant funding source, is a distinction hospital districts share with port, sewer, water, and public utility districts. For comparison, note that non-tax sources make up less than 10 percent of the revenues for cities and counties. Property taxes are particularly critical to counties, where roughly 70 percent of their funds come from this source. Cities, however, depend on property taxes for only 30 percent of their budgets.

Issues related to the collection of patient revenues by hospital districts are covered in Chapter 4 of the PHD Legal Manual. However, most of the issues related to treatment of patients and collection of revenues are common to all hospitals and beyond the scope of the PHD Legal Manual. The laws pertaining to the generation and collection of hospital district revenues associated with taxes are of unique concern to hospital districts and are covered below.

#### *Washington Property Tax Structure, Generally*

Property taxes are taxes assessed on the estimated value of real and personal property owned by individual citizens and businesses in the state. The value is assigned by county property tax assessors or the state department of revenue and typically represents some estimate of the market value of the property. Using this value as the base, local and state revenue officials determine the amount of taxes required to support government by adding up the tax resources identified in each government's budget document as well as any other special property tax funds approved by the voters separate from the budget. Once these are tallied, a tax rate or "levy" per dollar value of property is calculated based on the budget need and the overall value of property in the area.

This is, of course, a dramatically simplified version of how property taxes are determined. An enormously complex set of state laws has evolved which specifies how calculations are to be made, which classes of property and persons should be totally or partially exempt from taxes for public policy reasons, and how the public is to be afforded the opportunity to challenge government decisions with respect to its tax burden. While these issues could have some significance for hospital districts, neither this guide nor the PHD Legal Manual covers them in detail. The guide does, however, focus on a variety of laws, which set limits on the type, amount, and duration of property taxes in Washington.

#### *Washington Tax Levies*

Washington law establishes distinct types of property taxes, which may be levied by local governments depending on the specific grants of authority within each class of government's authorizing statute. These are: 1) regular or "maintenance and operations" levies, 2) special or excess levies, 3) bond levies and 4) emergency medical services (EMS) levies. Washington's PHDs are authorized to use each of these levy types, subject to the many rules set out below.



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**Regular property tax levies** are those authorized to be applied year after year for each type of local government. These are normally thought of as supporting the day-to-day activities of the government, and for this reason are commonly described as "maintenance and operations" (M & O) levies. A maximum regular property tax rate is established by statute for each type of local government that has the authority to use these levies. The vast majority of complexity and confusion in Washington law relates to these levies.

**Special levies** are those authorized to be applied for a given year or years in "excess" of the regular property tax. The Washington State Constitution grants the general authority to local governments to obtain voter approval for one-year special levies. School districts are an exception, and are authorized to have voter approval for six years. Still, each local government class must also be granted the authority to run special levies in statute. Hospital district authority is found in RCW 70.44.060(6).

**Bond levies** are actually a type of special or excess levy. Simply put, bond levies are special levies authorized to retire voter-approved bonds and apply for the term of the bonds. Of course, the world of property taxes is never quite that simple, and the special rules for bonds and bond levies are numerous.

**Emergency medical services levies** can be levied by counties, emergency medical services districts, cities, towns, fire protection districts, or public hospital districts for emergency medical purposes. [RCW 84.52.069] If a county levies an EMS tax, another district qualified to levy an EMS tax may only levy for the balance between the amount of the county's EMS tax and the statutory maximum of the EMS tax.

### **C. Bond Financing**

#### *General Ability to Borrow*

As is true of all municipal corporations, PHDs have no inherent authority to borrow money. Although they have broad, implied powers to make expenditures for PHD purposes, their powers to incur obligations for the future payment or repayment of money in order to accomplish the same purposes must be expressly conferred by statute. The statutory authorization, moreover, must conform to applicable constitutional restraints.

#### *Obtaining a Legal Opinion*

Because of the need for express authority, the practice has arisen of obtaining a legal opinion, usually from an independent law firm with special expertise in public finance and federal tax law, in connection with public financing arrangements. Before a lender will advance money to a PHD, before a contractor will accept a municipal debt instrument in payment for goods or services, before an underwriter or investor will purchase such an instrument, each may require assurance that the PHD is duly acting within its lawful authority. A legal opinion by a recognized municipal bond counsel serves this purpose. It is also customary for the opinion to state that the interest paid by the PHD will be exempt from federal income taxation, if this is the case.



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### *Types of Borrowing Devices*

Many of the common PHD borrowing devices discussed in this section are generally well understood. **General obligation bonds** are interest-bearing, fixed term obligations to the payment of which the issuer has pledged its "full faith and credit" – meaning that the issuer is bound to levy taxes and apply other available resources, to pay the principal and interest on the bonds when due or as soon thereafter as possible. There may be limitations, however, on the rate at which tax levies may be made and hence on the speed with which the bonds may be retired. **Revenue bonds** differ from general obligation bonds in that they are payable only out of a special fund, to which normally are pledged the revenues derived from the facility the bonds are issued to finance, and occasionally also other moneys (but not general property taxes). If such fund is insufficient, the bondholders have no recourse to other sources of payment. Other financing devices include warrants, notes, conditional sales contracts, and more recently credit cards.

### *General Obligation Bonds*

PHDs are authorized to issue general obligation bonds [RCW 70.44.060(5)(b)]. The purpose of these bonds must be to acquire or to construct a public hospital or "other health care facilities" [as defined in RCW 70.44.007(1)], or to improve or to extend an existing facility. [RCW 70.44.110]

The bonds must be authorized by resolution of the hospital district commissioners. The resolution must describe the plan of acquisition or of construction, declare the estimated cost of the project and specify the amount of indebtedness to be incurred. The voters need not approve the bonds if the 0.75 percent debt limit has not or will not be exceeded. [RCW 39.36.020(2)] Approval of the voters by a 60 percent majority is required otherwise.

General obligation bonds issued by PHDs are payable from taxes levied upon all taxable property in the district in an amount sufficient, together with other revenues of the district that are available to pay the interest on and the principal of the bonds. [RCW 70.44.130] The amount of taxes is certified to, and collected by, the proper county officer in the county where the district is located. [RCW 70.44.060(6)]

The commission of the PHD is authorized to determine:

- The bond issue amount;
- Date or dates;
- The term (which may not exceed thirty years);
- Conditions;
- Bond denominations;
- Interest rate or rates (which may be fixed or variable);
- Interest payment dates;
- Maturity or maturities;
- Redemption rights;



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- Registration privileges;
  - Manner of execution;
  - Price;
  - Manner of sale;
  - Covenants; and,
  - Form.

#### *Unlimited v. Limited General Obligation Bonds*

If the general obligation bonds are payable solely from the district's regular property tax levy, the bonds are referred to as "limited tax" general obligation bonds. If the general obligation bonds are payable from a special levy in excess of the district's regular levy, the bonds are referred to as "unlimited tax" general obligation bonds. As discussed below, special bond levies in excess of a district's regular levy must be approved by a vote of the district's residents. In addition, the proceeds of unlimited tax general obligation bonds may only be used for capital purposes other than the replacement of equipment.

#### *Revenue Bonds*

The commissioners of PHDs are authorized to issue revenue bonds for district purposes. [RCW 70.44.060(5)(a)] Issuance of the bonds is covered by the Municipal Revenue Bond Act. [Chapter 35.41 RCW] Analogizing from the provisions of that chapter, the board may issue revenue bonds simply by resolution—voter approval is not required. [RCW 35.41.010; .030]

The bonds may be issued to finance the acquisition, construction, expansion, improvement or operation of hospitals or "other health care facilities," as defined in RCW 70.44.007(1). See also RCW 35.41.100; 70.44.060. Planning, engineering, legal, interest and transaction costs may be included in determining the principal amount of bonds. [RCW 35.41.090]

Revenue bonds issued by PHDs are payable solely from a special fund or funds into which a fixed amount or a fixed proportion of revenues from the facility that the bonds financed are obligated. [RCW 35.41.010]

The rates or charges for the facility financed by the revenue bond should be sufficient to pay the principal and the interest on any bonds or warrants, the transaction costs, and the operating and maintenance expenses of the district. [RCW 35.41.080] The bonds are not considered a general indebtedness of the PHD for statutory debt limitation purposes. [RCW 35.41.030(8)]

The characteristics of revenue bonds are generally similar to the characteristics of general obligation bonds except that the bonds must state on their face that they are payable from a special fund and do not constitute a general indebtedness of the district.



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### *Refunding Bonds*

Public hospital districts are authorized by chapter 39.53 RCW to issue bonds, without an election, for the purpose of refunding previously issued bonds in three situations. The first situation is when all or part of an outstanding bond issue is in arrears or about to become due, and insufficient funds are available to retire or to redeem the bonds. The second situation is when it is either necessary or in the public hospital district's best interest to modify the debt service, reserve requirements or other terms under which the bond is being refunded. The third situation is when the public hospital district will save money, taking into account transaction costs, by refunding the bonds. [RCW 39.53.020] General obligation bonds may be issued to refund general obligation bonds, and revenue bonds may be issued to refund other revenue bonds. Under chapter 39.53 RCW, bonds also may be issued to refund warrants and other obligations, including other refunding bonds.

Advance refunding bonds are also authorized by chapter 39.53 RCW. An advance refunding bond is issued for the purpose of refunding a bond first subject to redemption or maturing more than one year after the advance refunding bonds are issued. [RCWs 39.53.010(8) and 39.53.020]

Refunding bonds issued pursuant to chapter 39.53 RCW are payable generally from the same sources — taxes and revenues — as the bonds refunded. Special provisions apply to advance refunding bonds. During the interim period between the issuance of the bonds and the time when the bonds to be refunded mature or are first subject to redemption, the proceeds and investment income from the advance refunding bonds may be used to secure and to pay both the principal of and the interest on the advance refunding bonds themselves. [RCW 39.53.070]

Refunding bonds generally have the same characteristics as the bonds they refund [RCW 39.53.120]. The refunding bonds may be issued in a principal amount in excess of the principal amount of the bonds to be refunded. The excess is limited to an amount reasonably required to accomplish the refunding. The principal amount of the refunding bonds also may be less than the principal amount of the bonds to be refunded, if that sum is sufficient to accomplish the refunding [RCW 39.53.050]. If the bonds to be refunded were voter-approved general obligations bonds, the maturities of the refunding bonds may not extend over longer periods than the maturities of the bonds to be refunded. [RCW 39.53.050]

### *Warrants*

Public hospital districts are authorized to issue three types of warrants: revenue, tax anticipation and general. [RCW 70.44.060(5)(a)]

#### Revenue Warrants

- Revenue warrants are payable either out of a special fund to which revenues of a public hospital facility are obligated, or are payable from the proceeds of the sale of revenue bonds. Revenue warrants issued against a special fund are not on

